

**MINUTES OF THE COURT OF APPEAL
STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT**

January 30, 1998

DIVISION ONE

B107899 Montgomery (Not for Publication)
 v.
 Cal Accountants Mutual Ins. Co.

The judgment is affirmed.

Spencer, P.J.

We concur: Vogel (Miriam A.), J.
 Masterson, J.

B113485 People (Not for Publication)
 v.
 Pontious

The judgment is affirmed.

Spencer, P.J.

We concur: Ortega, J.
 Masterson, J.

B108853 People (Not for Publication)
 v.
 Owens

The judgment is affirmed.

Spencer, P.J.

We concur: Vogel (Miriam A.), J.
 Masterson, J.

DIVISION ONE (Continued)

B104304 People (Not for Publication)
v.
Chin et al.

Defendant Chin's conviction on count four, assault with a firearm, is reversed. In all other respects, his judgment of conviction is affirmed. The abstract of judgment is modified to show a Penal Code section 654 stay as to count 11. The clerk of the trial court is directed to prepare a modified abstract of judgment and forward a copy to the Department of Corrections. The judgment of conviction against defendant Lee is modified to reflect a conviction of second degree burglary on count seven; as so modified, the judgment is affirmed. The abstract of judgment is modified to show an enhancement pursuant to Penal Code section 12022, subdivision (a)(1), on count nine. The case is remanded with directions to reconsider defendant Lee's motion pursuant to Penal Code section 1385 to strike one of his prior convictions. Following remand, the clerk of the trial court is to prepare a modified abstract of judgment and forward it to the Department of Corrections.

The judgment against defendant Plock is affirmed.

Spencer, P.J.

We concur: Ortega, J.
Masterson, J.

B093690 Sauer (Not for Publication)
v.
Ultramar, Inc. et al.

The judgment is reversed. The superior court is directed to enter a new and different judgment in favor of defendant Ultramar, Inc., which is to recover its costs on appeal.

Spencer, P.J.

We concur: Ortega, J.
Masterson, J.

January 30, 1998-Continued

DIVISION ONE (Continued)

B112017 People (Not for Publication)
v.
Garcia

The judgment is affirmed. The trial court is ordered to correct the abstract of judgment to state that Hugo Vargas Garcia was convicted by jury and to forward a copy of the corrected abstract to the Department of Corrections.

Masterson, J.

We concur: Ortega, Acting P.J.
Vogel (Miriam A.), J.

B108333 People (Not for Publication)
v.
Rodriguez

The judgment is modified to stay sentence on count 2 pursuant to Penal Code section 654. As modified, the judgment is affirmed.

Masterson, J.

We concur: Vogel (Miriam A.), Acting P.J.
Dunn, J. (Assigned)

B112266 People (Not for Publication)
v.
Jennie G.

The order is affirmed.

Spencer, P.J.

We concur: Ortega, J.
Masterson, J.

January 30, 1998-Continued

DIVISION ONE (Continued)

B110312 People (Not for Publication)
v.
Fuller

The judgment is affirmed.

Spencer, P.J.

We concur: Ortega, J.
Vogel (Miriam A.), J.

[illegible]

The judgment is affirmed.

Spencer, P.J.

We concur: Ortega, J.
Vogel (Miriam A.), J.

B105522 People (Not for Publication)
v.
Eley

The true findings regarding Eley's prior strikes and his prior prison term are affirmed. In all other respects, the judgment is reversed, and the cause is remanded to the trial court with directions to (1) enter a judgment of acquittal for the crimes charged in counts 2, 3 and 8 (§ 289, subd. (a)); and to (2) conduct a new trial of count 1 (§ 243.4, subd. (a)) and a retrial of the lesser included offenses charged in counts 2, 3 and 8 (§ 243.4, subd. (d)).

Vogel (Miriam A.), J.

We concur: Ortega, Acting P.J.
Masterson, J.

January 30, 1998-Continued

DIVISION ONE (Continued)

B111550 Gabriela I., et al. (Not for Publication)
v.
Co. of L.A.

The order of dismissal is reversed. Costs are not awarded on this appeal.

Masterson, J.

We concur: Spencer, P.J.
Ortega, J.

B111992 Jackson (Not for Publication)
v.
APT Medical Transport Co., Inc., et al.

The judgment of dismissal is reversed. The trial court is directed to vacate its order sustaining defendants' demurrer without leave to amend. Plaintiff is to recover his costs on appeal.

Spencer, P.J.

We concur: Ortega, J.
Vogel (Miriam A.), J.

[illegible]

The judgment (orders sustaining the § 777 petition and committing defendant to camp) are reversed. The matter is remanded for the trial court to dismiss the petition.

Ortega, J.

We concur: Spencer, P.J.
Masterson, J.

January 30, 1998-Continued

DIVISION ONE (Continued)

B104405 Lesbines (Not for Publication)
B106028 v.
 Universal City Nissan, et al.

The judgment and orders are affirmed. Lesbines is awarded his costs of appeal.

Vogel (Miriam A.), J.

We concur: Ortega, Acting P.J.
 Masterson, J.

B113815 People (Not for Publication)
 v.
 Eric O.

The order declaring wardship is affirmed.

Masterson, J.

We concur: Spencer, P.J.
 Vogel (Miriam A.), J.

B104852 People (Not for Publication)
 v.
 Woods

The judgment is affirmed.

Masterson, J.

We concur: Ortega, Acting P.J.
 Vogel (Miriam A.), J.

January 30, 1998-Continued

DIVISION ONE (Continued)

B108106 Tradeshow and Sign Crafts (Not for Publication)
 v.
 East West Exhibitor Services

The order denying the motion to vacate the default judgment and the arbitration award is affirmed.

Masterson, J.

We concur: Spencer, P.J.
 Ortega, J.

DIVISION TWO

Court convened at 9:15 A.M.

Present: Boren, P.J., Fukuto, J., Nott, J., Zebrowski, J., and G. Villanueva, Deputy Clerk.

B112496 People
 v.
 Womack

Merits:
Argued by Theresa Cochrane, Deputy Attorney General for respondent and by Robert Philipson for appellant. Cause submitted.

B108073 People
 v.
 Torlucci

Merits:
Argued by Noah Hill, Deputy Attorney General for respondent and by Christine Shaver for appellant. Cause submitted.

DIVISION TWO (Continued)

B097443 Hechinger
 v.
 Skiles

Merits:

Argued by Al Hechinger, in propria persona and by Alan Gura, Deputy Attorney General for respondent. Cause submitted.

B098284 Leader
 v.
 Health Industries of America

Merits:

Argued by Michael McEntee for appellant and by Thomas Bolan for respondent. Cause submitted.

B107858 Wambold Marker, Inc.
 v.
 American Home Assurance Co.

Merits:

Argued by Barry Kramer for appellant and by Douglas Mackary for respondent. Cause submitted.

B112525 Henderson
 v.
 Sandwick

Merits:

Argued by Edward Horowitz for respondent and by R.S. Valentine for appellant. Cause submitted.

DIVISION TWO (Continued)

B109681 Perrault
 v.
 University of So. California

Merits:
Argued by James Link for appellant and by Gareth Evans for respondent.
Cause submitted.

B105743 Chang
 v.
 Lee
 (Young Nak Presbyterian, r.p.i.)

Merits:
Argued by Victor Wightman for appellant and by Jan Rainbird and Gerald
Peters for respondent. Cause submitted.

B110862 Metropolitan Culinary Services
 v.
 County of L.A.

Merits:
Argued by Peter Rosen for appellant and by Albert Ramseyer, Deputy
County Counsel for respondent. Cause submitted.

B109718 T-Merr Investment
 v.
 Hudson

Merits:
Argued by Gary Torpy for respondent and by Milton Condon for appellant.
Cause submitted.

DIVISION TWO (Continued)

B108122 Hongsathavij
 v.
 Queen of Angels

Merits:
Argued by Henry Fenton for appellant and by Dawn Cushman for
respondent. Cause submitted.

B097298 Devore
 v.
 Cole, Maria
 (Cole, Natalie, et al., r.p.i.)

Merits:
Argued by George DeRoy for appellant and by Jana Bray and Carl Grumer
for respondent. Cause submitted.

B104444 E.F. Brady Co., Inc.
 v.
 Kitchell Contractors

Merits:
Argued by Richard Corona for appellant and by Andrea Gauthier for
respondent. Cause submitted.

B106500 No. Hollywood Project
 v.
 City of L.A.

Merits:
Argued by Robert Ferguson for appellant and by Ronald Low for
respondent. Cause submitted.

Court adjourned.

January 30, 1998-Continued

DIVISION THREE

B103301 Don Olson (Not for Publication)

V.

Franchise Tax Board of the State of California

The order of dismissal is affirmed. Each side to bear its own costs on appeal.

Kitching, J.

We concur: Klein, P.J.
Croskey, J.

B096171 Industrial Indemnity Company, etc.

V.

Jed Enterprises, Inc. etc.

Filed order vacating submission order of October 27, 1997. Cause resubmitted.

B110776 Katherine Weber, et al.

V.

Board of Retirement of the Los Angeles County Employees Retirement Association, etc.

Filed order vacating submission order of October 20, 1997, cause resubmitted.

B102106 Rosario E. Sobremonde, etc. et al. (Not for Publication)

V.

Superior Court, Los Angeles County
(Bank of America National Trust and Savings Association, etc., r.p.i.)

The petition is granted. The alternative writ is discharged. Costs to Petitioners.

Kitching, J.

We concur: Croskey, Acting P.J.
 Aldrich, J.

January 30, 1998-Continued

DIVISION FOUR

B107529 People (Not for Publication)
v.
Diaz

The judgment is affirmed.

Vogel (C.S.), P.J.

We concur: Hastings, J.
Baron, J.

B096578 Horn (Not for Publication)
v.
McClintock et al.

The judgment is reversed and the matter remanded for further proceedings consistent with the views expressed in this opinion. Appellant Horn is awarded his costs on appeal.

Vogel (C.S.), P.J.

We concur: Hastings, J.
Baron, J.

B109876 Rennie (Not for Publication)
v.
Koerber

The order of dismissal is affirmed.

Vogel (C.S.), P.J.

We concur: Hastings, J.
Baron, J.

DIVISION FOUR (Continued)

[illegible]

The judgment is affirmed.

Vogel (C.S.), P.J.

We concur: Epstein, J.
Baron, J.

B106183 People (Not for Publication)
v.
Park

The judgment is affirmed.

Vogel (C.S.), P.J.

We concur: Epstein, J.
Hastings, J.

B116235 Suzette H. (Not for Publication)
v.
Superior Court, Los Angeles County
(Los Angeles County Department of Children and Family Services, r.p.i.)

The writ is granted and the trial court is directed to vacate its order terminating reunification services and setting the matter for a section 366.26 hearing, and to enter a new order instructing DCFS to have the mother's physical and mental condition evaluated and to provide additional reunification services specifically tailored to mother's particular needs. This decision is final as to this court immediately upon filing, pursuant to California Rules of Court, rule 24(d). The clerk of this court is directed to notify the clerk of the trial court forthwith of this decision, in accordance with California Rules of Court, rule 39.1B(p).

Epstein, J.

We concur: Vogel (C.S.), P.J.
Baron, J.